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Appl. Number:	09/978,215
Appl. Filed:	10/15/01
Applicant:	Luis J. Rodriguez
Title:	Self Sealing Forms (Formerly Self Sealing Letter Sheets)
Examiner / GAU:	Stephen P. Garbe / 3727

URGENT

REQUEST FOR RECTIFICATION OF PAPER #29 PETITIONS UNDER 1.181 (a)(3)

This petition is respectfully submitted under 37 C.F.R. 1.181(3) and relates to Office's paper # 29.

As a foreword, applicant respectfully requests that this petition is thoroughly read and understood, fully considered and fairly and impartially acted upon.

In response to Paper #29, whose gross inaccuracies, errors and omissions are one-by-one proven as such in this paper and which only seem to indicate that:

a) any paper submitted by applicant is to be interpreted in a way that supports its *a-priori* dismissal, as already evidenced by Office's papers #24 and #27;

and/or

b) there has simply been a systematic predisposition to alienate pro-se Applicant/Petitioner of his legitimate rights;

pro-se Applicant/Petitioner respectfully invokes the supervisory authority of the Director under 37 C.F.R. 1.181 (a)(3) and petitions the specific actions on page #8 of this paper. which are supported by the following facts:

Paper #29 improperly dismissed the petition of May 12, alleging untimeliness, which contravenes **last paragraph of Office's paper #25** and further a **phone conversation between applicant and the Director, Mrs. E. Rollins-Cross** on May 08, 2003.

Paper 25, last paragraph reads: "Petitioner may file a renewed petition, without additional fee, provided that the renewed petition is filed within two months of the date of this decision."

Pro-se applicant telephoned the Office and spoke with the Director, to verify the meaning of this

statement. Applicant specifically asked: —***"If I file a renewed petition, would it be considered on its merits?"***

Mrs. E. Rollins-Cross replied: —***"Yes"***.

Third paragraph of paper 29 incorrectly refers to applicant's petitions as:

a) "Petitioner is requesting a statement that petitioner is entitled to entry of Amendment C."

This is not what applicant petitions. The statement that applicant petitions is clearly outlined in the first page of petition of May 12, 2003, last para. and then again in page 10 under numeral 1. The reasons for this petition are clearly explained in the first page of such petition paper under the heading "Preface"

Thus, what is petitioned is a **clarifying** statement to the effect of: "The arguments and supporting attachments —**which are NOT amendments**— submitted with paper entitled "Amendment C" are already in the record." Because they are.

To restate the reasons for this petition:

Since pro-se applicant had referred to response to Office Action of Sept. 11/02 as "AMENDMENT C", which in addition to some minor specification and claim amendments included many arguments disputing O.A. of Sept. 11, 2002 and further supported by illustrated attachments, pro-se applicant was under the erroneous impression that non-entry of the amendment in such response also applied to the arguments and attachments in support thereof, while in fact these arguments and attachments **are already in the record.**

The statement is petitioned to avoid any confusion, as pro-se applicant also incorrectly refers to these arguments and attachments in the Appeal brief as being contingent upon a decision by the Director. The arguments and supportive attachments, as are in response to O.A. of Sept. 11, 2002, are already in the record as a matter of right.

While there is also a fully supported petition to enter the amendment, they are two clearly distinct petitions:

1) A petition to issue a **clarifying** statement indicating that the arguments and supportive attachments —**They are not "amendments"**— are already in the record, by virtue of being responses to Office Action of Sept. 11/02.

That is that. Then:

2) A petition to enter the Amendment itself. which is a completely different issue.

b) Paper 29, in third paragraph also incorrectly states that: "applicant petitions entry of Amendment B, filed on August 24, 2002."

This is incorrect and such improper interpretation has a very unfair effect for appeal purposes, as Amendment B has always been in the record.

It is significantly notorious that paper #29 fails to acknowledge the petition to enter the substitute specification.

Paper #29, also incorrectly states that "a review of the record shows that all the actions complained of in this petition, and for which relief is requested occurred no later than October 17, 2002, almost seven full months prior to the filing of the instant petition"

None. Repeat: None of the actions requested occurred prior to October 17, 2002, much less "almost seven full months prior to the filing of the instant petition"

The petitions, as clearly indicated in a **numbered** list on pages 10 and 11 of Paper of May 12, and the respective dates of the actions from which relief is sought are as follows:

1. A **clarifying** statement indicating that arguments and attachments submitted with paper entitled "Amendment C" are already in the record, because they are simply responses to Office Action of September 11, 2002, and they are not any "amendment".

This petition does not seek relief from any action by the Office, but is a simple request to dissipate any confusion that pro-se applicant may have caused by erroneously referring to these arguments and attachments as contingent upon a decision by the Director, since pro-se applicant had mistakenly understood that because response to Office Action of September 11, 2002 was entitled "Amendment C", all the arguments and attachments were also denied entry into the record, when in fact they are already in the record. They are NOT amendments.

The date of the action from which relief is requested is March 07, 2003. (Date of Appeal brief)

2. Entry of amendments in paper entitled Amendment C. This refers to the amendments, themselves.

The dates of the actions from which relief is requested are: Oct. 25, 2002 (Advisory Action)
Oct. 29, 2002. (Interview)

Alternatively, under this same numeral, it was petitioned the entry of such amendment for purposes of appeal.

3. Entry of Substitute specification.

The dates of the actions from which relief is requested are: Oct. 25, 2002 (Advisory Action) **Oct. 29, 2002**. (Interview, where examiner failed to reverse the ruling after proven groundless thereof)

4. Entry of Affidavit # 4, submitted under the premise that finality of action of September 11 was premature.

The date of the action from which relief is requested is October 25, 2002. (Advisory Action)

5. Any other action that the commissioner may sua sponte find fair and appropriate.

Date of action requested: May 12, 2003 (Date of petition)

The preceding discussion is only to prove the incorrectness and inappropriateness of Office's paper #29, when it states that the actions from which relief is requested date prior to Oct. 17, and even 7 months ago and longer.

Because even if these actions had occurred prior to October 17 —which none did— the petition submitted on May 12, 2003 was timely filed as per Office's paper # 25 (please, see last paragraph of paper #25), and as per phone conversation with the Director, Mrs. Rollins-Cross on May 08, 2003.

The only possible explanation for this so erroneous accounting of the dates is that background information submitted in support of the petitions is being misconstrued as the actions requested, when in fact the actions requested are clearly spelled-out and **numbered** at the end of the petition.

Such misconstrued interpretation of this background information is just an unfair penalty to applicant for complying with 37 C.F. R. 1.181 (b):

> *Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.*

Notoriously, paper #29 fails to address two important items in the petition of May 12, 2003, which constitute unequivocal evidence of the unfairness and arbitrariness of this case's examination, namely:

a) EXHIBIT F, which is a copy of the summary of interview of October 29, 2002 by applicant, and which is also submitted as per 1.181(b)

b) **PETITION #4**, which is a petition to enter the substitute specification, and the arguments and the overwhelming proof provided by attachment 17, clearly pointing out the error and unfairness of Examiners ruling, and further the defensiveness that pro-se applicant has had to adopt in prosecuting this case against the arbitrary actions of the Examiner. Attachment 17 is a proactive effort by applicant to prevent any more unfair allegations of 'new matter'

Also very notoriously, paper #29 fails to address any of the items discussed in page 2 of paper of May 12, under the heading **"Reasons for These Petitions"**

Paper #29 also incorrectly states: "The instant petition does not provide any compelling rationale for the consideration of the merits of this petition almost seven months (or even longer) subsequent to the actions complained above."

Notwithstanding the fact that as already established, all the actions from which relief was specifically petitioned as unequivocally listed and numbered on pages 10 and 11 of Petition of may 12, 2003 by applicant occurred on or after October 17, 2002;

notwithstanding that as already established, the petition of May 12 was timely filed as it was a renewed petition as per last para. of paper 25, and a phone conversation with the Director on May 08, 2003;

notwithstanding the fact that the "actions complained above" are merely background information to further prove the unfairness of the Examiner, as per 37 C.F.R. 1,.181 (b) and that **no petition** is addressed to reverse any of them;

the petition of May 12, 2003 clearly provides compelling, undisputed and undisputable evidence of the improper and arbitrary actions and negligent inactions by the Examiner, which are herewith submitted in compilation form as a

SUMMARY OF FACTS SUPPORTING A COMPELLING RATIONALE OF ARBITRARINESS AND UNFAIRNESS

1) Examiner report of interview of October 29, 2002 was untruthful. (Please, see page 12, 3rd. para. of petition of May 12, 2003.) See Summary of Interview by Applicant, (Also submitted as EXHIBIT F) which was never contested. The "Summary of Interview by Applicant" was prompted by the untruthfulness of the Interview Summary by Examiner.

2) Refusal to enter amendment of paper entitled "Amendment C, was groundless, as proven by

applicant. (See page 1, first. para. of EXHIBIT F)

3) Failure to reverse such ruling after Applicant proved the error to examiner is in gross disregard for the law and any sense of equity.

4) The rejection of claim 45 in Office Action of September 11, 2002 was also undue. See footnote of page 1 of **EXHIBIT F**. Regardless of when it occurred —**NO petition is made about this action, and in any event this is not petitionable**— this is simply submitted as undisputable, verifiable and on-the-record evidence of the Examiner's unfair rulings and arbitrary actions, as per 1.181(b) and which is part of the "Compelling Rationale" that paper 29 incorrectly alleges that applicant has failed to provide.

5) Improper refusal to enter the Substitute specification, alleging the phrase "relates to a blank" constituted new matter, as the term 'blank' was literally recited by claim 17.

6) The fact that Examiner unduly arrogates authority simply to disregard this case is an unequivocal indication of the prejudice and unfairness in this case. The law requires that if there's any new matter, such new matter is to be a) properly identified, b) objected to, and c) requested to be canceled. Even if there was any 'new matter' —which there's none— substitute specification should not have been denied entry.

7) Failure of Examiner to reverse the groundless refusal to enter the substitute specification in light of the evidence submitted that "blank" was literally recited by claim 17, and also with "Attachment 17" which discusses all the amendments in substitute specification, proving that there is absolutely NO new matter. This is even more eloquent of Examiner's determination to unduly disregard this case.

8) After admitting that there were no grounds to reject claim 68, under 112, for reciting new matter, Examiner's failure to reverse the rejection is blatantly unfair. See page 3, #5) of EXHIBIT F.

9) After a rejection of some claims over "Fisher in view of Schieman" —Please, see O.A. of 03/11/02, Section 11 (2nd para. of page 5) Please, see O.A. of 03/11/02, Section 12 (3rd para. of page 5) Please, see O.A. of 03/11/02, Section 13 (4th para. of page 5) —

and after applicant addressed this rejection (Please see pages 32-38 of response entitled "Amendment A") the reply by examiner was that "Fisher has not been applied as a reference, and therefore, the arguments submitted by applicant are moot" (Please, see O.A. of 06/20/02, 3rd para. of page11) This is unquestionable disturbing evidence of the negligent quality of the examination of this case. Regardless of when it occurred —NO petition is made about this action— this is simply submitted as undisputable, verifiable and on-the-record evidence as per

1.181(b) of the Examiner's unfair rulings and arbitrary actions, and which is part of the "Compelling Rationale" that paper 29 incorrectly alleges that applicant has failed to provide.

10) Office Action of September 11/02 failed to respond to applicant's questioning regarding the improper statement that "Fisher has not been applied as a reference, and therefore, the arguments submitted by applicant are moot" (Please, see response entitled "Amendment B", page 26, 5th para.) This is yet more clear and disturbing evidence of the grossly negligent quality of the examination of this case.

11) O.A. of June 20 did not offer any substantive and coherent response to the affidavits and arguments in paper titled Amendment A. This is simply unfair. The purpose of exchanging communications during prosecution is to intelligently decipher the merits or lack thereof of an application. But this can only work if there is in fact a logical and mutually responsive exchange of messages. Examiner's failure to do Examiner's part in unfair detriment to applicant.

12) Failure of O.A. to respond to the arguments and supportive attachments submitted with paper entitled "Amendment B" contravenes MPEP 707.07 (f) and MPEP 2163, III.

13) After O.A. of June 20, 2002 (page 11, 2nd para.) specifically requested that applicant pointed out to the structural differences of the claimed invention, it is insultingly unfair of the Examiner to fail to address applicant's reply to this specific request. This is unquestionably clear evidence of the blatant superficiality of the examination of this case.

14) While "Amendment" in paper entitled "Amendment C" was —however improper— denied entry, such paper contained 55 pages of arguments and probative material, plus 17 attachments of which, none was addressed by the Office. This is clear proof of prejudice in this case.

All the preceding items 1-14, relate to absolutely clear, undisputable and verifiable evidence on the record. And further:

15) Please, see page 3, and page 4 para. 1-4) of Petition of may 12, 2003, for additional evidence submitted as testimony by applicant, as per 37 C.F.R. 1.181 (b) under declaration at the end of that paper, and which is not the object of any petition, so even if any of that happened 7 months ago or longer, is evidence of the "Compelling Rationale" that paper 29 incorrectly alleges that applicant has not provided. These statements clearly point to a systematically prejudicial attitude towards this case.

Paper #29 also refers in its 6th paragraph to the Petition #1) of paper filed on May 12, 2003 in an incorrect and very confusing manner, with potentially very unfair effects to applicant, as follows:

"Petitioner comments regarding the inconsistencies that may exist in the appeal brief to the non-entry of certain papers fail to take into consideration that the brief was filed on March 7, 2003 and petitioner had more than ample time within the constrains of 37 C.F.R. 1.181(f) to have timely filed a petition to have received a decision with respect to such relief prior to filing maximum deadline permitted by regulation to file the appeal brief"

The comments by applicant do not relate to any 'non-entry' of any papers. The comments relate to arguments and supporting attachments that **are already in the record**, by virtue of being in response to Office Action of September 11, 2002.

The petition is simply for a **clarifying** statement from the Director to avoid any confusion that pro-se applicant may have caused in the appeal brief by his erroneous belief that such arguments and attachments —**NOT amendments**— were not entered, and that their entry was contingent upon a decision by the Director.

The cause of the confusion was that response to Office Action of Sept. 11/02 was titled "Amendment C" and the Amendment, in such paper was denied entry, but such paper also had those arguments and attachments which are merely responsive material, and are therefore already in the record as pro-se applicant learned subsequently.

ACTIONS PETITIONED

1. Adequate and fair consideration of this paper.

2. A rectification of the confusing statements in paper #29, regarding "Amendment B", so it is unequivocally clear that "Amendment B" is on the record.

3. Full and fair consideration on its merits of renewed petition of May 12, 2003, as per last paragraph of paper#25, and as per phone conversation of Applicant with the Director, Mrs. E. Rollins-Cross, **and in the context of all the clarifications and rectifications submitted with the instant paper.**

4. To prevent anymore confusions, it is further petitioned that this paper is incorporated into the Renewed petition of May 12, 2003.

4. Full consideration of **EXHIBIT F**, which has been submitted as per 37 C.F.R. 1.181 (b), and which is a part of the Renewed Petition of May 12, 2003

Very Respectfully,

Luis J. Rodriguez
Pro-se Applicant

DECLARATION: *I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of any application, any patent issuing thereon, or any patent to which this verified statement is directed.*

Luis J. Rodriguez, Applicant

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URGENT

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This is an **URGENT** transmission, as it brings to the Office's attention errors in Office's paper #29, which affects an appeal in progress.